

April 14, 2022

Vanessa A. Countryman
Secretary, Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: Comments on Proposed Money Market Fund Reforms

Release No. IC-34441; File S7-22-21

Dear Ms. Countryman,

U.S. Bancorp Asset Management, Inc. (USBAM) appreciates the opportunity to comment on the proposed amendments to money market fund (MMF) rules that were issued by the U.S. Securities and Exchange Commission (SEC) on December 15, 2021. USBAM is a registered investment adviser with more than \$192 billion in assets under management as of December 31, 2021. We are primarily focused on short-term fixed income strategies for institutional investors. As the adviser to the First American Funds family of MMFs, established in 1982, both fund shareholders and our business have been impacted by the 2010 and 2014 MMF reforms. We would like to share our viewpoint on the meaningful potential changes our industry and MMF shareholders may face should the SEC's proposed amendments be implemented as proposed.

I. Executive Summary

USBAM's summarized views on the proposed amendments are below:

- The SEC should delink redemption gates and liquidity fees from weekly liquid asset percentages which will effectively address first mover advantage.
- The SEC should impose increased daily and weekly liquidity metrics that will allow MMFs to meet redemption requests throughout various market cycles; although we feel a smaller increase in weekly liquid assets – to 40% rather than 50% – will accomplish the same goal.
- The SEC should not implement swing pricing as proposed because it will reduce investor interest in institutional prime and institutional tax free MMFs and increase investor confusion.
- The SEC should not implement the proposed negative rate amendments prohibiting reverse distribution mechanisms and requiring stable net asset value (NAV) funds to float because this will limit the optionality currently afforded each MMF's board to manage future negative rate environments; funding market disruption would potentially occur as stable NAV government fund investors engage in large-scale withdrawals upon the threat of negative rate policies; and numerous intermediaries may choose not to undertake the required complex systems conversions reducing the availability of government MMF offerings to investors.

II. Introductory Comments on the Proposals

We would like to acknowledge the substantial work that went into the proposed amendments as well as the 2010 and 2014 Reforms. We recognize and support the changes that were implemented in 2010 and believe they have been successful in improving liquidity, stability, and confidence in MMFs. Following the 2014 Reforms, the industry saw a substantial shift out of

prime MMFs, which were subject to both floating NAV and the redemptions gate / liquidity fee provisions.

MMFs were not the cause of the short-term market stress in March 2020, an idea supported by the research published by the Investment Company Institute in November of that year.¹ The First American Fund complex – including First American Institutional Prime Obligations Fund – experienced inflows during the period. It is our view investors see MMFs as a less volatile investment during times of market stress and preserving that benefit remains a paramount consideration for these investors.

Below, we outline our support for proposals, which largely accomplish the goals stated in the release, and raise concerns on proposals we feel are problematic for shareholders. We also comment on whether we think the proposals meet the SEC's stated goals of: 1) increased transparency, and 2) increased resilience.

III. Proposals Largely Supportive of Stated Reform Goals

Proposal: Remove the tie between weekly liquid assets and the imposition of liquidity fees and redemption gates

USBAM agrees with the proposal to **remove the tie** between weekly liquid asset (WLA) thresholds and the imposition of liquidity fees and redemption gates and believes it will increase resilience of MMFs. The current potential for fees and / or gate imposition as MMFs approach or move below the 30% WLA boundary incentivizes investors to redeem and exacerbates the risks of first-mover advantage. Eliminating this tie will remove this redemption trigger and should discourage preemptive runs by shareholders. This will allow MMF managers to use the liquidity thresholds as intended – to manage shareholder redemptions.

Proposal: Increase Liquidity Thresholds

On balance, USBAM supports increasing daily and weekly **liquidity thresholds**. Higher liquidity thresholds should bolster investor confidence overall, allow funds to meet large redemptions from liquidity buffers, and reduce redemption risks to funds during periods of market turmoil.

USBAM supports the SEC's proposal to raise minimum daily liquidity requirements to 25% of total assets. While most MMFs hold daily liquid assets well above the current 10% requirement, codifying a higher 25% requirement will bolster MMF resiliency and increase investor confidence.

We also support raising minimum WLA requirements for MMFs from the current 30% threshold. However, USBAM believes a 40% requirement is more than adequate to maintain the resiliency of MMFs and strikes a better balance with issuer funding needs. Establishing a minimum 50% WLA requirement would limit the investment options available for MMFs, reduce the prominent role MMFs play as an effective provider of market funding, and push MMFs toward the Federal Reserve's Overnight Reserve Repurchase Facility. Rather than encouraging funds to maintain lower levels of liquidity during normal market conditions, a 40% WLA requirement would induce fund managers to continue to maintain a cushion well above minimum daily and weekly liquidity requirements in line with current practice. MMFs compete on multiple factors, including yield. Our experience suggests credit quality and liquidity are the primary concerns for MMF investors, with MMF liquidity metrics a key differentiator for investors. Fund managers understand falling below well-prescribed regulatory minimum liquidity requirements can trigger negative sentiment toward a fund from shareholders and third-party portals, outweighing any marginal yield benefit gained from holding lower liquidity levels.

¹ Investment Company Institute. 2020. "Experiences of US Money Market Funds During the COVID-19 Crisis." Report of the COVID-19 Market Impact Working Group (October). Washington, DC: Investment Company Institute. Available at www.ici.org/pdf/20_rpt_covid3.pdf.

On balance, higher liquidity requirements will have a marginal downward effect on prime MMF yields. However, we are of the opinion yield differentials between prime and government MMFs are more a function of market-driven yield differentials between prime MMF investments (e.g., commercial paper, certificates of deposit, non-traditional repo) and government MMF investments (e.g., T-bills, agency debt, traditional repo). We believe the proposed amendments, assuming a 40% WLA requirement, will better allow market forces to properly balance the risk/return appetites of investors.

Further, we do not believe the proposed amendments will significantly alter prime MMF investment strategies or portfolio structure other than to comfortably remain above enhanced liquidity requirements. Our experience and analysis of competitor prime MMF holdings suggest there would be little industry appetite to increase allocations and weighted average life to “riskier” assets to offset higher liquidity levels.

USBAM believes the removal of the tie between gates and fees and liquidity thresholds, while at the same time increasing minimum daily and weekly liquidity requirements, strengthens the resiliency and transparency of MMFs and are largely supportive of reform goals.

IV. Comments on Potential Policy Measures Not Supportive of Stated Reform Goals

USBAM believes a number of proposed amendments, if adopted, would not advance the stated goals of reform and could threaten the shareholder benefits of MMFs.

Proposal: Swing Pricing for Institutional Prime and Institutional Tax-Free Funds

USBAM strongly opposes the **swing pricing proposal** for institutional prime and institutional tax-free MMFs. This opposition extends to the related reporting and disclosure proposals. Swing pricing would be particularly problematic for institutional prime MMFs that price multiple times per day and offer same-day settlement. As suggested in the proposal, substantial reconfiguration of current distribution and order-processing practices would be required. The proposed requirement is likely to reduce feasibility and increase costs of same day settlement and impact funds’ abilities to offer multiple NAV strikes, which exist as a tool developed in response to the last round of reforms to meet shareholder demand for same day proceeds. Although the proposal discusses comments around the widely used mechanism of order cut-off times, under Rule 22c-1 of the Investment Company Act of 1940, as amended, (the “1940 Act”), it does not sufficiently take into account shareholder opposition, cost of implementation, complexity, and operational considerations. Because of these factors, institutional prime MMFs would likely discontinue offering multiple strikes, which would directly impact intraday liquidity and, ultimately, shareholder utility.

Additionally, the concept of adjusting the NAV to approximate the transaction cost of “selling a vertical slice” of the portfolio does not reflect how portfolio managers manage liquidity, nor do funds incur trading fees on every position. Rather, to meet shareholder liquidity demands, portfolio managers plan for redemptions by allowing securities to mature, rather than selling securities. Therefore, the concept of the proposed swing pricing mechanism does not match up with how liquidity is achieved in practice.

We believe the proposed 4% threshold level to engage swing pricing is also problematic. The proposal indicates that this level was established by the SEC’s review of historical flow information and the subsequent determination that the threshold was crossed on 5% of trading days during a five-year period. The historical analysis was conducted using daily flows and appears not to have been analyzed for the impacts of intraday flows sustained by MMFs with multiple NAV strikes. The proposal would require the market threshold level be divided by the number of NAV strikes, furthering operational order processing issues, and increasing the number of NAV strikes subject to the market threshold impact.

The analysis conducted utilizing the proposed 4% threshold level may significantly under-estimate the frequency of swing pricing events. First American Institutional Prime Obligations Fund accepts shareholder activity at three strike times daily. We conducted an analysis of the fund’s redemption

activity from late November 2021 to early January 2022 – a period with no unusual market stress. Our analysis indicated a swing pricing factor would have been utilized on 28% of market trading days. If the swing pricing proposal is adopted as written, our analysis indicates many more shareholders would be impacted by swing pricing than intended and oftentimes during normal market conditions.

USBAM strongly opposes swing pricing, but if it is ultimately adopted, we encourage the SEC to establish a higher market impact threshold that more accurately reflects redemption levels experienced during outlier market events. Any analysis preceding a final rule should consider all NAV strike times and redemption activity for impacted MMFs and not rely on an end of day-over-day analysis.

Swing pricing also introduces tax and accounting complexities that we do not believe were adequately addressed in the proposal. Tax reporting consequences could become overly burdensome for MMFs subject to swing pricing if the NAV method of accounting for gains or losses and exemption from the wash sale rules cannot continue to be utilized. Additionally, the cash and cash equivalent treatment of MMFs is woven into generally accepted accounting principles (GAAP). Corporate investors rely on the treatment of MMFs as cash and cash equivalents rather than investment securities. Therefore, we strongly encourage the SEC to consider the negative tax reporting consequences if accommodations are not made in the final rule.

To recap, the lack of certainty over the application and scale of swing pricing, funding delays for same-day settlement, and NAV adjustments add unnecessary complexity to institutional prime and institutional tax-free MMFs. Additionally, the concept would likely prove confusing for shareholders. Rather than providing the perceived benefit of reducing or eliminating first-mover advantage, USBAM believes that there would be a significant reduction or elimination in demand for funds subject to swing pricing. Ultimately, fewer institutional prime MMFs would also have a negative effect on demand and functioning in the short-term markets, thereby increasing volatility for those few prime MMFs choosing to remain and the short-term market at large. It is USBAM's view swing pricing does not achieve the goals of increased transparency nor resilience.

Proposal: Amendments Related to Negative Interest Rates

The SEC's proposed amendments in the event of a future **negative interest rate environment** limit flexibility for MMF boards to respond to shareholder needs. Specifically, the proposal calls for requiring intermediaries to attest to being able to support a floating NAV in stable NAV MMFs and prohibiting the reverse distribution mechanism (RDM).

Currently, government and retail MMFs are allowed, under Rule 2a-7 of the 1940 Act, to utilize fund valuation and pricing techniques to offer a stable NAV of \$1.00 per share. Such valuation is permitted as long as a fund's board of directors believes this method fairly reflects the fund's market-based NAV. MMF boards already have discretion to declare that a MMF's amortized cost NAV does not fairly reflect the fund's market-based NAV per share and convert to a floating NAV.

The SEC is not proposing a change to the pricing provision allowing boards to consider action to address dilution if a fund's market and amortized cost NAVs deviate. However, the proposal would require stable NAV MMFs confirm with each intermediary that it can transact at a floating NAV **and prohibit** those intermediaries who cannot from purchasing funds in nominee name.

Many MMFs' largest shareholders are omnibus sweep accounts held in nominee name. After the 2014 Reforms, several large intermediaries declined to update systems to support floating NAV institutional prime MMFs and many institutional shareholders were unwilling to update treasury management and accounting systems to accommodate a floating NAV MMF. There was a corresponding massive shift out of institutional prime MMFs into government MMFs in the wake of the floating NAV requirement.

Requiring financial intermediaries to attest to the ability to transact stable MMFs at a floating NAV could cause a similar, unintended response, especially given the cost intermediaries would have to bear at

present to offset a future and uncertain negative rate environment. Each exit by an intermediary would increase excess cash in the financial system in need of a new liquid investment vehicle. In a negative rate environment, such liquid investment vehicles may prove hard to find.

In addition to questionable intermediary adoption, we believe a floating NAV would be unattractive to most government MMF investors given their priority on safety and principal stability. A shift to floating NAV would create significant incentives for government MMF investors to leave MMFs as rates approach the zero barrier, creating substantial dislocation in the U.S. Treasury, repo, and bank deposit markets. First mover advantage suggests funding market volatility would increase at the first sign Federal Reserve policy rates may turn negative. While this proposal may be seen as an avenue to provide more flexibility for the Federal Reserve to utilize negative rate policies, we believe it would actually limit the Federal Reserve's options due to the expected funding market volatility.

In response to the proposal to prohibit RDM, USBAM believes it is important for funds to have effective tools to address shareholder dilution. Such tools include allowing stable NAV MMFs some flexibility in determining how to protect remaining investors in a fund from dilution resulting from a deviation between amortized cost and market value NAVs. In the proposal, the SEC expresses concern that investors may be misled by an RDM into assumptions regarding the value of their investments and potentially be confused by the nature of how RDMs function. Rather than prohibiting RDM, however, the SEC should consider rules requiring transparency to the conditions in which any RDM would be utilized and requiring such mechanisms be clearly described in the MMF prospectus.

Prudence would dictate leaving tools at each MMF board's disposal to accommodate myriad market factors that may come into play in a negative rate environment. We know from work done to vet the RDM tool many investors would prefer it to a floating NAV. The value of a shareholder's account would be the same whether the NAV floats or an RDM is put in place. MMF boards and sponsors are in the best position to understand the needs and behavior of their investors. USBAM strongly supports maintaining each board's ability to flexibly respond to market influences that may be in play during a future negative rate environment, which includes retaining RDM optionality.

In the event of a negative interest rate environment in the United States, shareholder behavior can only be theorized. But we do know that MMFs are a trusted alternative to risk assets in times of stress and enacting provisions limiting MMF utility during such times supports neither investors nor markets. Therefore, USBAM feels that preemptive intermediary attestation and prohibiting RDMs are not supportive of the stated SEC's reform goals.

V. Comments on Proposed Compliance Dates and Reporting

Proposal: Compliance Periods

The SEC proposes a 12-month **compliance period** for swing pricing, related disclosures, and amendments related to potential negative interest rates.

USBAM does not believe that 12 months offer a sufficient preparation period for intermediaries and vendors. The effort each would have to undertake to develop, test, and implement specialized systems to support the swing pricing proposal is daunting. Additionally, should the negative rate proposal requiring stable NAV funds to transition to floating NAVs ultimately be adopted, intermediaries would need additional time to build the capacity to support this change, similar to that afforded for the 2014 floating NAV reform. USBAM recommends the SEC provide at least two years following issuance of final rules to allow the industry adequate time to successfully implement these significant changes and build supportive employee training programs, policies, and procedures.

Proposal: Amendments to Form N-CR Requirements

The SEC proposes adding a new requirement for MMFs to file a report on Form N-CR when a liquidity threshold is crossed. The SEC believes this new requirement would make it easier for shareholders and

the Commission to monitor significant liquidity declines, without having to visit each MMF's website. Currently, each MMF publishes six months of liquidity information daily via an enhanced disclosure report and we believe this is an effective and adequate level of transparency for investors. USBAM believes N-CR filings for liquidity thresholds, if ultimately required, should be filed confidentially (and remain confidential) with the SEC.

Proposal: Amendments to Form N-MFP Requirements

The SEC proposes adding certain new information about MMF shareholders, the sale of non-maturing portfolio investments, and lot-level details to Form N-MFP, in addition to other changes designed to increase accuracy in the filing. The current regulation requires MMFs to file Form N-MFP within five business days after each month-end, which is already challenging to meet. USBAM believes five business days is not enough time to prepare and quality check the increased level of information and data being proposed. As such, should these proposals be adopted, we suggest the SEC extend the filing period to at least seven business days.

The proposed amendments would require that all MMFs provide the name and percentage ownership of each recorded shareholder, or one known to beneficially own 5% or more of outstanding shares in a class. Although fund registration statements currently provide this shareholder information, we believe investors may view increased frequency as a privacy concern. Further, the proposal to identify institutional prime and institutional tax-free MMF shareholders by type may pose consistency concerns given the social code mapping that has been done on different recordkeeping systems across the industry. Finally, MMFs are not managed at a class level, but rather as a whole portfolio. USBAM would question the utility of providing such information, as monitoring fund holders at a class level in many cases would be meaningless given disparate class sizes and distribution channel considerations. For these reasons, USBAM opposes the addition of shareholder information to the monthly N-CR filing.

VI. Conclusion

MMF sponsors are uniquely positioned to understand the needs of short-term issuers, MMF shareholders, and liquidity markets. USBAM believes investors want to be able to rely on the principal preservation and NAV stability of their MMFs. We are concerned that the proposals intended to address a negative rate environment – requiring intermediaries to attest they can support a floating NAV in stable NAV MMFs and the prohibition of RDM – have potential to meaningfully disrupt the financial markets. Post-2014 reforms, stable NAV MMFs have gathered scale primarily because they offer a stable NAV along with daily liquidity. We believe this change would push MMF investors into other regulated and unregulated cash vehicles that would have a hard time accommodating the nearly \$5 trillion in assets that could flow out of these stable investments.

USBAM's other major concern is the swing pricing proposal. If adopted, it will likely further shrink the size of the institutional prime and institutional tax-exempt MMF sectors at a time adding scale back to the sectors would have a net positive impact. Smaller, less diverse prime and tax-exempt MMF sectors would be less resilient, thereby making the MMF industry a less robust funding source for short-term issuance, which runs counter to efforts to strengthen short-term markets.

MMFs carry certain risks, as does every other investment vehicle. We believe MMF shareholders understand these risks and choose to invest in our funds because they have historically offered – and continue to offer – an acceptable risk/return tradeoff.

We appreciate the opportunity to comment on this proposal and respectfully ask for your consideration of the issues raised in this letter.

Sincerely,

/s/ James Palmer

James Palmer, Chief Investment Officer
U.S. Bancorp Asset Management, Inc.

cc: The Honorable Gary Gensler
The Honorable Allison Herren Lee
The Honorable Caroline A. Crenshaw
The Honorable Hester M. Peirce
William A. Birdthistle, Director, SEC Division of Investment Management